

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

May 30, 2002

DIVISION ONE

B149531 Hanson (Not for Publication)
v.
Grode et al.

The order under review is reversed. The trial court is directed to place the matter on track for trial. Costs of appeal awarded to plaintiff Hanson.

Mallano, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B155310 City of Los Angeles (Not for Publication)
v.
Superior Court, Los Angeles County
(Killingsworth, et al., r.p.i.)

Let a peremptory writ of mandate issue, commanding respondent superior court to vacate its order of December 14, 2001, directing the Los Angeles City Attorney's Office to "go through the material at issue in the *Pitchess* to see if there is any *Brady* material" and to enter a new and different order denying defendant's *Pitchess* motion in full. The temporary stay order issued in this matter on December 26, 2001, is dissolved.

Mallano, J.

We concur: Ortega, Acting P.J.
Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B150462 People (Not for Publication)
v.
Curtis Miles

We modify the judgment by striking two of the five one-year enhancements imposed by the trial court (see Part VI above) and remand the matter to the trial court to correct the abstract of judgment and forward the corrected abstract to the Department of Corrections. In all other respects, the judgment is affirmed.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

B149089 People (Not for Publication)
v.
American Surety Company

The order under review is reversed. Appellant American Surety Company to recover costs on appeal.

Mallano, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B153076 People (Not for Publication)
v.
Barrios

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.
Ortega, J.

DIVISION ONE (Continued)

B117224 People v. Andres Gamez (Not for Publication)
B155091 In re Andres Gamez on Habeas Corpus

The judgment is affirmed. The matter is ordered transferred to the Superior Court of the State of California for the County of Los Angeles. The Director of the Department of Corrections is ordered to show cause before that court, when ordered on its calendar, why the judgment should not be vacated and defendant given the opportunity to withdraw his plea. (See *People v. Snyder* (1993) 14 Cal.App.4th 1166, 1177.)

At the evidentiary hearing the trial court shall proceed as follows: If the trial court finds (1) that trial counsel failed to inform defendant that the enhancement which he admitted (former Health & Saf. Code, § 11370.4, subd. (a)(4)) required that he be “substantially involved in the planning, direction, execution, or financing of the underlying offense,” and (2) that trial counsel’s failure to so inform defendant fell below an objective standard of reasonableness under prevailing professional norms, and (3) that defendant would not have admitted the enhancement had he known of the requirement that he be substantially involved in the underlying offense, then the trial court shall grant the petition for writ of habeas corpus and give defendant the opportunity to withdraw his plea and enter a new plea of not guilty to the charges filed against him. If any of these questions are answered in the negative, defendant’s petition shall be denied.

A certified copy of this opinion together with a copy of the petition for writ of habeas corpus which is the subject of this order shall be served by the clerk of this court on the Director of the Department of Corrections forthwith. Any written return and any traverse to the return shall be served and filed with the superior court on or before the date set by that court. The superior court is directed to appoint counsel to represent defendant in this proceeding.

Mallano, J.

We concur: Ortega, Acting P.J.
 Vogel (Miriam A.), J.

May 30, 2002-Continued

DIVISION ONE (Continued)

[illegible]

The judgment is affirmed.

Mallano, J.

We concur: Ortega, Acting P.J.
Vogel (Miriam A.), J.

B149031 Christensen (Not for Publication)
v.
City of Los Angeles

We affirm the summary judgment. Respondent is awarded costs.

Ortega, J.

We concur: Spencer, P.J.
Mallano, J.

DIVISION TWO

B152733 People (Not for Publication)
v.
Ricardo

The judgment is modified by striking the 16-month enhancement on count 8. As modified, the judgment is affirmed. The superior court is directed to send a certified copy of an amended abstract of judgment reflecting this modification to the Department of Corrections.

Boren, P.J.

We concur: Nott, J.
Ashmann-Gerst, J.

DIVISION TWO (Continued)

B147551 People (Not for Publication)
v.
Martinez

The judgment is modified to impose a penalty assessment of \$50 (§ 1464, subd. (a)) and a second penalty assessment of \$35 (Gov. Code, § 76000, subd. (a)) based on the \$50 criminal laboratory analysis fee imposed. The superior court clerk is directed to issue an amended abstract of judgment which correctly reflects these penalty assessments pursuant to section 1464 and Government Code section 76000, subdivision (a). The corrected abstract of judgment is to be forwarded to the Department of Corrections. In all other respects, the judgment is affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Doi Todd, J.

B148765 People (Not for Publication)
v.
Licea

The judgment is affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Doi Todd, J.

B149060 People (Not for Publication)
v.
Gholar and Brown

The judgments are affirmed.

Ashmann-Gerst, J.

We concur: Nott, Acting P.J.
Doi Todd, J.

DIVISION TWO (Continued)

B136560 People (Not for Publication)
v.
Brown

The judgment is affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Doi Todd, J.

B151484 People (Not for Publication)
v.
Locklin

The judgment is affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Nott, J.

[illegible]

The order under review is affirmed.

Ashmann-Gerst, J.

We concur: Nott, Acting P.J.
Doi Todd, J.

DIVISION TWO (Continued)

B157417 George J., et al. (Not for Publication)

v.

Superior Court, Los Angeles County
(DCFS, r.p.i.)

The petition for writ of mandate is denied and the order to show cause is discharged.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

B147308 Courtright, et al. (Not for Publication)

v.

Sun Life Insurance Company of America

The judgment is affirmed. Sun Life shall recover its costs on appeal.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Nott, J.

B148865 Cortes (Not for Publication)

v.

Compton Unified School District, et al.

The judgment of the trial court is affirmed. Respondents are entitled to costs on appeal.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Nott, J.

DIVISION THREE

B149109 People (Not for Publication)
v.
Agler

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B152152 People (Not for Publication)
v.
Bulmes

The judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

[illegible]

The judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION THREE (Continued)

[illegible]

The judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect that he was awarded 254 days precommitment credit, consisting of 170 days custody credit pursuant to Penal Code section 2900.5, subdivision (a), and 84 days conduct credit pursuant to Penal Code section 4019, and is further directed to forward a copy of the amended abstract of judgment to the Department of Corrections.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

B152588 Richard Scott Russo (Not for Publication)
v.
Digital Domain, Inc. et al.

The summary judgment is reversed and the cause is remanded for further proceedings not inconsistent with the views expressed herein. Plaintiff shall recover his costs on appeal.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION THREE (Continued)

B148049 Manhattan Holding Company, etc. (Not for Publication)
B151763 v.
 Barry Schweiger, et al.

The December 26, 2000 minute order from which all parties have appealed is reversed in so far as it strikes the cause of action for conversion against defendant Knight and in all other respects, the order is affirmed. The parties will bear their own appellate costs in that appeal. The order of May 22, 2001, awarding attorney's fees to defendants is affirmed. Plaintiff and Schweiger will bear their own appellant costs in that appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B143295 Charleen Case
 v.
 City Thrift and Loan Association, etc. et al.

Filed order vacating submission order of Feb. 14, 2002 due to the press of other court business and the complexity of the issues. Cause resubmitted.

B145530 Marc E. Hecker, et al.
 v.
 Mark Nathanson

Filed order vacating submission order of Feb. 14, 2002 due to the press of other court business and the complexity of the issues in this case. Cause resubmitted.

DIVISION FIVE

B143762 Marite M. Vella (Not for Publication)
 v.
 U.S. Borax Inc.

The attorney fee award is reversed. The judgment is affirmed in al other respects. Defendant, U.S. Borax, Inc., shall recover its costs from plaintiff, Marite M. Vella.

Turner, P.J.

I concur: Armstrong, J.
I concur in part and dissent in part: Mosk, J. (Opinion)

B147769 David P. Golonski (Not for Publication)
 v.
 Robert Edwin Etter

The judgment is affirmed. Respondent to recover costs on appeal.

Armstrong, J.

We concur: Turner, P.J.
 Mosk, J.

B145102 J. Lynwood Walker (Certified for Partial Publication)
 v.
 Countrywide Home Loans, Inc.

The trial court's judgment and the order denying attorney fees to Countrywide are affirmed. The parties are to bear their own costs on appeal.

Mosk, J.

We concur: Turner, P.J.
 Grignon, J.

DIVISION FIVE (Continued)

B147608 In re Tyrone Evans (Not for Publication)
 on Habeas Corpus

The petition is denied.

Turner, P.J.

We concur: Grignon, J.
 Armstrong, J.

DIVISION SIX

Court convened at 9:33 A.M.

Present: Gilbert, P.J., Yegan, J., Coffee, J., Perren, J. and J. Terry, Deputy Clerk.

B157025 Christy P. v. San Luis Obispo County Superior Court

Argument waived, cause submitted.

B153689 Daniel
 v.
 Harway

Merits:
Argued by Mark A. Brown, deputy attorney general, for respondent. No
appearance on behalf of appellant. Cause submitted.

B149663 Ashley
 v.
 Ashley

Merits:
Argued by John F. Hodges for appellant and by Robert H. Mott for
respondent. Cause submitted.

DIVISION SIX (Continued)

B152040 Martignoni
 v.
 Sullivan

Merits:
Argued by Gerald Mason for appellant and by Claire M. Corcoran for
respondent. Cause submitted.

B154307 Webber
 v.
 San Luis Obispo County

Merits:
Argued by James Webber, appellant in propria persona and by Jay A.
Hieatt for respondent. Cause submitted.

B143374 Laursen
 v.
 Somogyi

Merits:
Argued by Earl Laursen, in propria persona, for appellants and by Kenneth
L. Moes for respondent. Cause submitted.

B157307 Robert L.
 v.
 San Luis Obispo County Superior Court
 (Department of Social Services, r.p.i.)

Merits:
Argued by Robert L., petitioner in propria persona, and by Patricia Stevens,
deputy county counsel, for real party in interest. Cause submitted.

DIVISION SIX (Continued)

B156432 Wendy P.
v.
San Luis Obispo Superior Court
(Department of Social Services, r.p.i.)

Merits:

Argued by Wendy P., petitioner in propria persona, and by Leslie Krout, deputy county counsel, for real party in interest. Cause submitted.

Court adjourned at 10:42 AM

DIVISION SEVEN

Court convened at 9:00 A.M.

Present: Lillie, P.J., Johnson, J., Woods, J., Perluss, J. and Eva McClintock, Deputy Clerk.

Each of the following:

B148328 People v. Keshishian
B148647 People v. Williams
B148763 People v. Jason S.
B149546 People v. Burley
B150568 People v. Queen
B150617 People v. Frazier
B151000 People v. Jarrett D.
B151102 People v. Anaya
B152731 People v. Griffin
B153915 People v. Cole
B154167 People v. Brittany L.
B154746 People v. Treadwell
B154959 People v. Montoya
B141136 Vivas v. Leigh
B153019 DCFS v. Robin D.
B154050 DCFS v. Steven H.
B154058 DCFS v. Byron P.
B157443 Rose T. v S.C.L.A.

Argument waived, cause submitted.

DIVISION SEVEN (Continued)

B151449 People
 v.
 Jason Kindle

Merits:
Argued by Jerry Whatley for appellant and by William Harter, deputy attorney general, for respondent. Cause submitted.

B152413 People
 v.
 Marlo A.

Merits:
Argued by Jan Norman for appellant and by Laura Hartquist, deputy attorney general, for respondent. Cause submitted.

B151916 People
 v.
 Michael R. Canedos

Merits:
Argued by Richard Doctoroff for appellant and by Susan Pithey, deputy attorney general, for respondent. Cause submitted.

B150112 People
 v.
 Jose H. Guizar

Merits:
Argued by Ronnie Duberstein for appellant. Respondent waived oral argument. Cause submitted.

DIVISION SEVEN (Continued)

B146361 People
 v.
 Jason B. Paulino

Merits:
Argued by Melissa Hill for appellant and by Michael Johnsen, deputy attorney general, for respondent. Cause submitted.

B146786 People
 v.
 David W. Smith

Merits:
Argued by Mark Ankcorn for appellant and by Steven Mercer, deputy attorney general, for respondent. Cause submitted.

B151521 People
 v.
 Eddie Raul M.

Merits:
Argued by Allan Weinberg for appellant and by Corey Robins, deputy attorney general, for respondent. Cause submitted.

B146326 Charlene Vom Dorp
 v.
 Ronald Vom Dorp

Merits:
Argued by Charles Lazaro for appellant and by J. Thomas Gilbride for respondent. Cause submitted.

DIVISION SEVEN (Continued)

B156079 Armando Bailon
 v.
 Superior Court, Los Angeles County
 (The People, r.p.i.)

Merits:

Argued by Brentford Ferreira, deputy district attorney, for real party in interest and by John Scott, deputy public defender, for petitioner. Cause submitted.

B146340 Structural Steel Fabric
 v.
 Pacific Bldg. Industries

Merits:

Argued by Ralph Evans for appellant and by Lawrence Halperin for respondent. Cause submitted.

B148046 Zohar Ziv
 v.
 California Fair Plan et al.

Merits:

Argued by Brad Child for appellants and by Steven Zelig for respondent. Cause submitted.

Court recessed at 12:10 P.M.

Court reconvened at 2:00 P.M.

Present: Johnson, Acting P.J., Woods, J., Perluss, J. and Eva McClintock, Deputy Clerk.

B144485 Helsel v. Helsel

Argument waived, cause submitted.

DIVISION SEVEN (Continued)

B149187 Lights of America
v.
Consumers Union

Merits:
Argued by Hari Lal for appellant and by Michael Pollet for respondent.
Cause submitted.

B144140 Marcus Cazares
v.
Robert M. Tessier

Merits:
Cause was called, appellant failed to appear. Respondent previously waived oral argument. Cause submitted.

Court adjourned at 2:32 P.M.

B143577 Shabtay (Not for Publication)
v.
20th Century Insurance

The judgment is reversed. Appellant(s) to recover costs.

Johnson, Acting P.J.

We concur: Woods, J.
Perluss, J.

B153047 People (Not for Publication)
v.
Stum

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

DIVISION SEVEN (Continued)

B153091 People (Not for Publication)
v.
Scott

The order under review is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Perluss, J.

B145735 Adbox, Inc. (Not for Publication)
v.
Metcalf

The portions of the judgment stating Adbox owes the Metcalfs \$97,476.36 under the Consulting Agreement and each side to bear its own attorney's fees and costs are reversed. Adbox is obligated to pay the Metcalfs \$115,139.36 under the Consulting Agreement. Defendants are the prevailing parties on the contract claims and the cause is remanded with directions to award defendants attorney's fees and costs reasonably expended in defending plaintiffs' seventh cause of action for declaratory relief and in prosecuting defendants' third cause of action for breach of contract and eighth cause of action for declaratory relief. In all other respects, the judgment is affirmed. Each party is to bear its own costs on appeal.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

DIVISION SEVEN (Continued)

B154256 People (Not for Publication)
v.
Scott W.

The order under review is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.
Perluss, J.

DIVISION EIGHT

B151221 Clutter (Not for Publication)
v.
Department of Motor Vehicles

The judgment is affirmed. Each party is to bear its own costs on appeal.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B149449 People (Not for Publication)
v.
Moscarelli

The judgment of the trial court is affirmed. The case is remanded for resentencing.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.